

# MEMO ENDORSED

Aric H. Wu  
Tel: (212) 479-6000  
Email: ahwu@cooley.com

Peter M. Adams  
Tel: (858) 550-6000  
Email: padams@cooley.com

Thomas J. McKenna  
Gregory M. Egleston  
Tel: (212) 983-1300  
Email: tjmckenna@gme-law.com  
Email: gegleston@gme-law.com

May 5, 2022

Hon. Valerie E. Caproni  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: ***Ross v. Bhatraju et al.*, Case No. 1:22-cv-02037-VEC**

Dear Judge Caproni:

We represent the Parties in the above-captioned derivative claim. A substantially similar consolidated putative class action, alleging violations of the federal securities laws against AppHarvest and certain of the Company's officers, is pending in the Southern District of New York: *In re AppHarvest Securities Litigation*, Case No. 21-cv-07985.<sup>1</sup> AppHarvest and certain of the Company's officers moved to dismiss the class action on May 2, 2022.

To promote efficiency, the Parties have agreed to stay the derivative claim (*Ross v. Bhatraju et al.*, Case No. 1:22-cv-02037-VEC) until the motion to dismiss the class action is resolved. Accordingly, the Parties attach to this letter a Stipulation and [Proposed] Order Temporarily Staying Action.

On March 17, 2022, this Court issued a Notice of Pretrial Conference (Dkt. No. 3) scheduling a Rule 16 Initial Pretrial Conference on May 13, 2022 at 2:30 p.m. by teleconference. In light of the Stipulation, the Parties believe this conference is unnecessary and request that it be postponed until the temporary stay in this case is lifted.

---

<sup>1</sup> Plaintiff Michael Ross stated in his Civil Cover Sheet (Dkt. No. 2) that his derivative claim was related to the consolidated putative class action.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5/9/2022

By ECF

5/9/2022

Dated: May 5, 2022

**COOLEY LLP**

By: /s/ Aric H. Wu  
Aric H. Wu  
55 Hudson Yards  
New York, NY 10001  
(212) 479-6000  
[ahwu@cooley.com](mailto:ahwu@cooley.com)

Peter M. Adams  
4401 Eastgate Mall  
San Diego, CA 92121  
(858) 550-6008  
[padams@cooley.com](mailto:padams@cooley.com)

Dated: May 5, 2022

**GAINEY MCKENNA & EGLESTON**

By: /s/ Thomas J. McKenna  
Thomas J. McKenna  
Gregory M. Egleston  
501 Fifth Avenue, 19<sup>th</sup> Floor  
New York, NY 10017  
(212) 983-1300  
[tjmckenna@gme-law.com](mailto:tjmckenna@gme-law.com)  
[gegleston@gme-law.com](mailto:gegleston@gme-law.com)

cc: All counsel of record (by ECF)

Application GRANTED. The initial pretrial conference scheduled for May 13, 2022, is CANCELLED. The Court will enter the parties' proposed stipulation and order to stay this case by separate order.

The Clerk of Court is respectfully directed to terminate the open motion at docket entry 16.

SO ORDERED.



Date: 5/9/2022

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE